

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

|                            |   |                              |
|----------------------------|---|------------------------------|
| State of Oklahoma, et al., | ) |                              |
|                            | ) |                              |
| Plaintiffs,                | ) | Civil No. 05-CV-0329 GKF-SAJ |
|                            | ) |                              |
| v.                         | ) |                              |
|                            | ) |                              |
| Tyson Foods, Inc., et al., | ) |                              |
|                            | ) |                              |
| Defendants.                | ) |                              |
|                            | ) |                              |

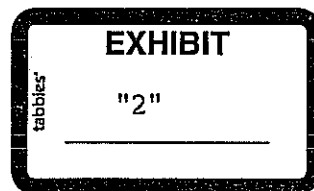
**AFFIDAVIT OF CHRISTOPHER DOLAN IN SUPPORT OF**  
**THE CARGILL DEFENDANTS' SURREPLY IN OPPOSITION TO MOTION**  
**TO ALTER TEMPORAL SCOPE OF DISCOVERY**

STATE OF MINNESOTA     )  
                                      ) ss.  
COUNTY OF RAMSEY     )

I, Christopher Dolan hereby state as follows:

1. I am an attorney at Faegre and Benson, LLP. I represent Cargill, Inc. and Cargill Turkey Production, LLC ("the Cargill Defendants") in the above-captioned litigation. I make this affidavit on personal knowledge and submit it in support of The Cargill Defendants' Surreply in Opposition to Motion to Alter Temporal Scope of Discovery.

2. Following the July 19, 2007 meet and confer, I was involved in the process of identifying all contract turkey growers in the IRW, including historic growers without any temporal limitation.



3. Specifically, the Cargill Defendants outside counsel conducted multiple interviews with Cargill employees in an effort to identify the identity and location of historic growers and their farms, coordinated a GPS survey of possible historic grower farms, prepared a list of all identified historic growers, and identified and produced all additional responsive documents known to counsel.

4. On September 14, September 18, and October 30, 2007, counsel for the Cargill Defendants produced additional contract grower files for all historical IRW contract turkey growers that we have been able to identify, regardless of date. These documents are bates numbered CARTP123734-137601. See Exhibit A, September 14, 2007 Letter from Dara Mann to Richard Garren, Exhibit B, September 18, 2007 Letter from Dara Mann to Richard Garren, and Exhibit C, October 30, 2007 Letter from Dara Mann to Richard Garren.

5. Pursuant to the Cargill Defendants' understanding of Plaintiffs' request for supplementation, as expressed in a August 2, 2007 letter from Theresa N. Hill to Robert Nance and Trevor Hammons, counsel for the Cargill Defendants conducted months of investigation of Cargill Turkey facilities nationwide to identify, collect, and produce documents responsive to the Plaintiff's request. The Cargill Defendants have already produced approximately 148,919 pages of documents it believes to be responsive to the Plaintiff's request without temporal limitation. This production occurred only after detailed review of well over 650,000 pages of documents by attorneys for the Cargill Defendants. Many of these documents are also responsive to the Court's July 6, 2007 Order, as further expanded by the agreements reflected in the August 2, 2007 letter.

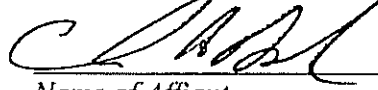
6. I have had an opportunity to review the index for the 200 boxes of documents described in Plaintiffs' Reply, and I have spot-checked some of the boxes. The majority of these

documents appear to be documents that are either unresponsive, repetitive form documents, or documents that are the same or substantially similar to information previously produced.

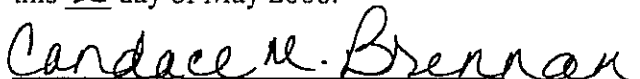
7. A further change in the scope of discovery will require the Cargill Defendants to conduct additional document reviews similar to the ones performed last fall. The prior document reviews were focused on the Court's existing Order and the summer 2007 agreement between parties. The Cargill Defendants have already incurred almost \$2 million in costs and expenses associated with responding to Plaintiffs' discovery requests.

8. Should the Court expand the temporal scope of discovery, as requested by Plaintiffs, it will require the Cargill Defendants to substantively review over 2,000 boxes of documents as well as re-interview dozens of Cargill employees. Although a rough estimate, the Cargill Defendants estimate that it will cost at least an additional \$2 million to conduct such a review using the same review procedures employed to date.

THIS CONCLUDES MY AFFIDAVIT.

  
\_\_\_\_\_  
Name of Affiant

Subscribed and sworn to before me  
this 2 day of May 2008.



Notary Public

My commission expires: 1/31/10

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UNITED STATES    ENGLAND    GERMANY    CHINA

DARA D. MANN  
 dmann@faegre.com  
 (612) 766-7089

ATLANTA OFFICE: 678-627-8190

September 14, 2007

Richard T. Garren  
 Riggs, Abney, Neal, Turpen, Orbison & Lewis  
 502 West Sixth Street  
 Tulsa, OK 74119

**EMAIL / ORIGINAL AND  
 ENCLOSURES VIA  
FEDEX OVERNIGHT**

Re: *State of Oklahoma v. Tyson, et al.*

Dear Rick:

Enclosed please find the Cargill Defendants' First Supplemental Answer to Interrogatory No. 1 of Plaintiffs' First Set of Interrogatories. Also enclosed are two CDs containing the Cargill Defendants 8<sup>th</sup> and 9<sup>th</sup> production of documents (CARTP123574-CARTP123733 and CARTP123734-CARTP129663).

The CD titled PROD08 contains reports generated from Cargill Turkey Production, LLC's TFS and Breeder databases. These reports are produced in response to Plaintiffs' First Set of Interrogatories, Interrogatory 1(d) [number of birds], and Plaintiffs' March 2, 2007 Set of Requests for Production, Request 5 [aggregate or total amount of poultry feed]. Cargill does not create or use these reports in the normal course of business, but since the systems have the ability to generate these reports we solicited the information from Cargill at the request of counsel during the July 19<sup>th</sup> meet and confer.

The CD titled PROD09 contains supplemental documents (without date restriction) related to the IRW contract growers and breeder farms previously identified by the Cargill Defendants. These documents include:

| <b>Production Range</b> | <b>Description</b>                                  |
|-------------------------|---|
| CARTP123734-CARTP123848 | Nutrient Management Plans for Company Breeder Farms |
| CARTP123849-CARTP124051 | Additional Documents from Contract Grower Files     |
| CARTP124052-CARTP126672 | Flock Evaluation Reports                            |
| CARTP126673-CARTP129663 | Prime Cost Files                                    |

The Cargill Defendants are continuing their efforts to identify all historical contract growers in the IRW. To the extent the Cargill Defendants have already identified former

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**EXHIBIT A**

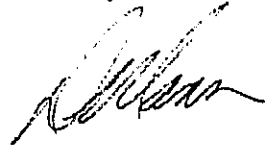
Richard T. Garren  
September 14, 2007  
Page 2

IRW contract growers in the years prior to 2002, the Cargill Defendants have included that information in their supplemental response to Plaintiffs' Interrogatory No. 1. The Cargill Defendants anticipate supplementing their document production as to these newly identified contract growers shortly. However, there are a small number of former contract growers for whom it is unclear whether their farms were located in the IRW. Once the location of these contract growers has been resolved, the Cargill Defendants will supplement their discovery responses as necessary.

Further, the Cargill Defendants have initiated the collection of documents responsive to the Court's July 6, 2007 Order and the agreements reached by counsel during the July 19<sup>th</sup> meet and confer at their facilities in Arkansas, Minnesota, Kansas, Virginia, Missouri and Texas. As soon as the collection and review of these documents is complete, the Cargill Defendants will begin producing these documents on a rolling basis as they become available.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dara D. Mann', with a stylized, cursive script.

Dara D. Mann

MANDD:speqc

cc: Trevor Hammons (via email only, w/o enclosures)  
Theresa Noble Hill (w/enclosures)

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UNITED STATES    ENGLAND    GERMANY    CHINA

DARA D. MANN  
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(612) 766-7089

ATLANTA OFFICE: 678-627-8190

September 18, 2007

Mr. Richard T. Garren  
Riggs, Abney, Neal, et al.  
502 West Sixth Street  
Tulsa, OK 74119-1010

**EMAIL / ORIGINAL AND**  
**ENCLOSURES TO FOLLOW**  
**VIA OVERNIGHT FEDEX**

Re:    State of Oklahoma v. Tyson, et al.  
      Case No. 05-CV-0329 GKF-SAJ

Dear Rick:

Enclosed please find one CD containing the Cargill Defendants' 10<sup>th</sup> production of documents (CARTP129664-CARTP136124). Pursuant to the agreements reached in our July 19 meet and confer with Mr. Hammons and Mr. Garren, as confirmed in Theresa Hill's letter of August 2, 2007, the documents contained on this CD represent all available contract grower files, flock evaluation reports and environmental audits for the IRW contract growers recently identified in the Cargill Defendants' First Supplemental Answer to Interrogatory No. 1 of Plaintiffs' First Set of Interrogatories. As I stated in my September 14, 2007 letter, there are still a small number of former contract growers for whom it is unclear whether their farms were located in the IRW. Once the location of these contract growers has been resolved, the Cargill Defendants will supplement their discovery responses as necessary.

Also, it has been brought to my attention that the document numbered CARTP129664-CARTP129665 produced on September 14, 2007 and attached to the Cargill Defendants' First Supplemental Answer to Interrogatory No. 1 was inadvertently mis-numbered resulting in duplication of numbering. The correct number for this document should be CAR000003-CAR000004. I have enclosed the correctly numbered document on a separate CD. As the Cargill Defendants' supplemental answer references this document by bates number, we hope that this letter will suffice to correct the reference. However, if you prefer that we revise and resend the supplemental answers with this corrected bates information, please let me know and we will forward that to you.

Lastly, I enclose the original corporate verifications for Cargill, Inc.'s First Supplemental Answer to Interrogatory No. 1 of Plaintiffs' First Set of Interrogatories and

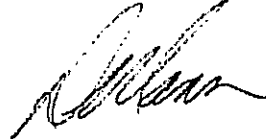
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**EXHIBIT B**

Mr. Richard T. Garren  
September 18, 2007  
Page 2

Cargill Turkey Production, LLC's First Supplemental Answer to Interrogatory No. 1 of  
Plaintiffs' First Set of Interrogatories.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dara D. Mann', written in a cursive style.

Dara D. Mann

MANDD/speqc

cc: Theresa Hill (w/enclosures)

fb.us.2303648 01

DARA D. MANN  
dmann@fnegre.com  
(612) 766-7089

ATLANTA OFFICE: 678-627-8190

October 30, 2007

Richard T. Garren  
Riggs, Abney, Neal, Turpen, Orbison & Lewis  
502 West Sixth Street  
Tulsa, OK 74119

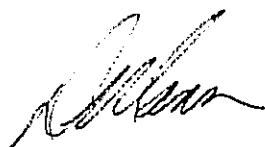
Re: *State of Oklahoma v. Tyson, et al.*

Dear Richard:

Enclosed please find one CD containing the Cargill Defendants' 11<sup>th</sup> production of documents (CARTP136125-CARTP137601). These documents represent grower files from the last group of historical IRW turkey growers identified by Cargill. With this production, we have concluded the process of identifying the Cargill Defendants' historical turkey growers in the IRW. For your convenience, we also enclose an updated list of Cargill, Inc. and Cargill Turkey Production, LLC's identifying all past and present IRW turkey growers bates numbered CARTP137602-CARTP137604.

Further, we have received your email communication dated October 24, 2007 regarding locating physical addresses for the recently identified historical turkey growers. We are working with the Cargill Defendants to identify any further information they have in this regard, and we will provide to you any such information we uncover.

Sincerely,



Dara D. Mann

MANDD:speqc

cc: T. Noble Hill (w/enclosures)  
fb.us.2374827.01

**EXHIBIT C**